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March 10, 2017

MUR # 7223

Lisa J. Stevenson, General Counsel
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

RECEIVED
OFFICE OF GENERAL
COUNSEL

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FEDERAL ELECTION
COMMISSION

Complaint regarding: Douglas L. Applegate: Applegate for Congress

Dear General Counsel Stevenson:

There is considerable evidence that Applegate for Congress (the Committee) and Treasurer Douglas L. Applegate have violated the Federal Election Campaign Act (the Act) and Federal Election Commission (the Commission) regulations. Accordingly, I am requesting that the commission conduct an audit and investigation to determine the extent of the violations and take appropriate enforcement action to protect the public interest and the integrity of our electoral system.

At a minimum, Treasurer Applegate and the Committee have knowingly and repeatedly made false and erroneous filings during the critical pre-election period and failed to respond to the Commission by the indicated deadlines when notified by letter of deficiencies in their reporting. Additionally, Treasurer Applegate has failed to faithfully discharge his duties as Treasurer of the Committee or meet the "best efforts" standard outlined by the Commission, and is personally liable for these violations under 11 CFR § 104.4 (d) (2016), which states:

- Each treasurer of a political committee, and any other person required to file any report or statement under these regulations and under the Act, shall be personally responsible for the timely and complete filing of the report or statement and for the accuracy of any information or statement contained in it.

Accordingly, I bring the following items to the attention of the Commission:

No Explanation of Missing Funds – The Committee’s 2016 Year-End Report shows an unexplained drop in cash-on-hand of more than \$376,000. The Committee’s previously filed Post-General Election Report showed an ending cash-on-hand of \$434,104.59, while its Year-End Report states a beginning cash-on-hand of \$57,696.58. These numbers should match. In a 2/27/17 article in the *San Diego Union Tribune*, an employee of the Committee, Robert Dempsey, acknowledges that gross accounting problems during the course of the campaign led to many errors in the Committee’s reports, but explicitly declines to provide an explanation for the alarming disappearance of nearly 90% of the Committee’s previously reported cash-on-hand.

No Effort To Correct Deficient Practices – The Commission repeatedly notified the Committee and Treasurer Applegate that there were serious deficiencies in their reporting over the entire course of the campaign, and specifically that the reporting of its year-to-date numbers did not add up, which should have caused them to review and remediate their compliance practices. Instead, Treasurer Applegate continued to sign and file false and erroneous reports, including during the critical pre-election period. Applegate’s failure to dutifully discharge his responsibilities as Treasurer denied the public a clear and transparent view of his campaign’s finances, which is the intent of the Act.

Knowingly Filing False and Erroneous Reports – Treasurer Applegate cannot credibly claim that he was not aware that the reports he was filing contained wrong and misleading information, both because of the many previous notices he had received from the Commission, which should have caused him to take prescriptive action, but also because of the nature of the campaign itself. Applegate was both candidate and Treasurer in the most competitive congressional race in the nation. As such, in both roles he would have been making decisions daily about major expenditures that would have required him to be keenly aware of the Committee’s cash flow and cash-on-hand at any given moment. A \$376,000 difference between the Committee’s actual bank balance and what he was publicly reporting in filings with the Commission would have been readily apparent.

Failing to Respond to Commission Inquiries – Treasurer Applegate and the Committee have, on at least three separate occasions, failed to respond to letter Requests For Additional Information (RFAI) from the Commission by the required deadline. In each instance, Treasurer Applegate still has not responded to the Commission, and some of the Commission’s inquiries are related to potentially serious violations of the Act, including failing to file required 48-Hour Late Contribution Reports in the critical pre-election period.

Ongoing Lack of Due Diligence and Best Effort - While the Committee did name a new Treasurer on 12/28/16, a necessary action given the abysmal and possibly criminal performance of Applegate, they have not acted in a timely manner to respond to the Commission’s inquiries or to amend, correct or explain the serious deficiencies and violations of the Act that occurred during the time that Treasurer

Applegate was responsible for the Committee's compliance. The new Treasurer has had more than 60 days to review the Committee's records and correct Applegate's errors and has not done so. This raises a question regarding the sincerity of the Committee's efforts and the scope of its violations.

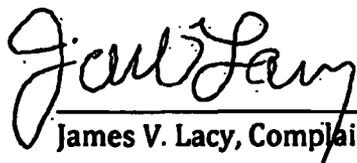
Finally, the deficiencies in the Committee's reporting suggests the possibility that Applegate's status as a candidate may have compromised his decisions and actions as Treasurer. Given the serious nature of the Committee's errors and failures to comply with the Act, a full audit and investigation by the Commission is warranted. If a Committee in one of the most competitive races in the country can ignore the Commission in this manner, and show this level of contempt for the Act without consequence, how can any other Committee be expected to voluntarily comply with the requirements of the Act?

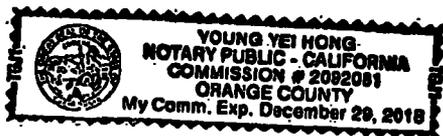
I appreciate your consideration of this request.

Sincerely,

James V. Lacy

Dana Point, CA 92629


James V. Lacy, Complainant



State of California County of ORANGE
Subscribed and sworn to (or affirmed) before me on this
10 day of MARCH, 2017, by
JAMES V. LACY
proved to me on the basis of satisfactory evidence
to be the person(s) who appeared before me:
Signature 